IN THE HIGH COURT OF JUDICATURE AT BOMBAY

T AND I JURISDICTION

NOTICE OF MOTION NO. 578 OF 2004

IN

PETITION NO. 336 OF 2000

Shri Kripashankar Mathuraprasad Dube
.....Petitioner
vs.
Smt. Kiran Ramshanakr Dubey ....Respondents.

A.R. Pandey for the petitioner.
None for the respondents.

CORAM: S.U. KAMDAR, J.

DATE : 21ST JULY, 2005.

P.C. :

1. The present motion is taken out by the petitioner who is the son of the deceased. He has claimed that the deceased died leaving behind his last will and testament dated 16.2.1966 under which the properties are to be equally distributed among the petitioner and the respondents who are nephews and nieces of the petitioner herein. Most of the

properties which are mentioned in the schedule are tenanted properties. It is the case of the petitioner that inrespect of the tenanted premises the respondent no.1 to 4 are recovering the rent and no amount has been furnished to them. However in so far as Item no.4 is concerned the petitioner states that the said property does not any more exist as the same is acquired by the government.

2. In view of the aforesaid the court Receiver is appointed as Receiver in respect of Item No. 1, 2, 3, 5,6, 7 and 8 of the Schedule-I to the petition. However the court Receiver is directed not to disposes any persons who are found in possession of the premises. However the court receiver will attorn the tenants and recover the amount and pay all outgoings, charges and property taxes inrespect of the said properties. Inrespect of the properties in which the respondents are in possession being Shop, Flour Mill etc, the respective respondents will be appointed as agent of the court receiver without security. However in

respect of the terms the receiver will fix the royalty and in respect of the residential premises the same persons will be permitted to occupy the same without any security and any royalty amount. In so far as Item No. 9 is concerned i.e. Room No. 139 which is in possession of third party and therefore no receiver is appointed. Inrespect of other four rooms i.e Room no. 134, 151, 152 and 153 the receiver is appointed with the similar aforesaid directions. ’

5. The Respondents are served. I have perused the Bailiff report of the deceased respondent no.3 and 4 which is on record. Till the receiver takes charge there shall be an interim order injunction restraining the respondents from alienating, encumbering or creating any third party rights inrespect of all the properties mentioned in Schedule-I to the petition. Motion disposed off accordingly. No order as to costs.

sd/-

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